

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: December 18, 2003

Opposition No. 92042364

Danilo'R, Inc. d/b/a Poleci

v.

VENERABLE COMPANIES, LTD.

Cindy B. Greenbaum, Attorney:

Notice of Default Discharged

On November 20, 2003, applicant was allowed thirty days to show cause why the Board should not enter default judgment against applicant for applicant's failure to file a timely answer.

In response, applicant states that it did not receive the notice of opposition.

The record clearly shows that applicant's failure to file a timely answer in this opposition proceeding was neither willful nor unduly prejudicial, but due to applicant's non-receipt of the notice of opposition from the Board. *See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

The Board is persuaded that the foregoing reason constitutes good cause to set aside applicant's default. Accordingly, the notice of default is discharged.

A copy of the notice of opposition and the Board's August 29, 2003 institution order are attached to applicant's copy of this order.

Applicant has until THIRTY DAYS from the mailing date of this order to file a response to the notice of opposition.

The parties are allowed THIRTY DAYS from the mailing date of this order to serve responses to any outstanding discovery requests. Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE: **June 14, 2004**

Thirty-day testimony period for party in position of plaintiff to close: **September 12, 2004**

Thirty-day testimony period for party in position of defendant to close: **November 11, 2004**

Fifteen-day rebuttal testimony period to close: **December 26, 2004**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

Pro Se Information

It appears that applicant, through its president, intends to represent itself in this matter. Trademark Rules 2.119(a) and (b) require that every paper filed in the patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which applicant may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

It should also be noted that while Patent and Trademark office Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

It is also recommended that applicant obtain a copy of the latest edition of Title 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice

and is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.

New Developments at the Trademark Trial and Appeal Board

Files of TTAB proceedings can now be examined using TTAB Vue, accessible at <http://ttabvue.uspto.gov>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format. Papers filed prior to January 2003 may not have been scanned. Unscanned papers remain available for public access at the TTAB. For further information on file access, call the TTAB at (703) 308-9330.

Parties should also be aware of recent changes in the rules affecting trademark matters, including the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003) (www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003) (www.uspto.gov/web/offices/com/sol/notices/68fr48286.pdf).

The second edition (June 2003) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at www.uspto.gov/web/offices/dcom/ttab/tbmp/.